

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

FLOR JIMENEZ,

No. 2:22-cv-00867-DAD-KJN

Plaintiff,

v.

SUPPLEMENTAL SCHEDULING ORDER

AYERS HOTEL COMPANY, INC.,

Defendant.

On May 23, 2022, the then-assigned district judge issued an “initial pretrial scheduling order” in this case, which provided that:

In any cases involving E.R.I.S.A, Class–Actions, or Administrative Appeals, the parties shall file a short joint statement with the Court identifying the type of case within thirty (30) days of service on all defendant(s). Based upon the provided information, the Court may issue a supplemental pretrial scheduling order.

(Doc. No. 3 at 6.) On September 1, 2022, the parties filed a joint Rule 26(f) report, in which the parties identify this case as a class action and provided the court with their preferences for case management and scheduling. (Doc. No. 9.) Pursuant to Rule 16(b) of the Federal Rules of Civil Procedure, the court has reviewed the parties’ joint status report (Doc. No. 9) and has determined that the court need not “consult[] with the parties’ attorneys and any unrepresented parties at a scheduling conference,” before issuing a scheduling order in this case. Fed. R. Civ. P. 16(b)(1)(B). Accordingly, the court now issues this supplemental scheduling order.

1 I. SERVICE OF PROCESS

2 The named defendant has been served as required by Federal Rule of Civil Procedure 5.  
3 No further service is permitted without leave of court, good cause having been shown under  
4 Federal Rule of Civil Procedure 16(b).

5 II. JOINDER OF ADDITIONAL PARTIES / AMENDMENT OF PLEADINGS

6 Plaintiff Flor Jimenez states that she may seek leave to amend her complaint to add  
7 additional plaintiffs. (Doc. No. 9 at 3.) Defendant does not intend to seek leave to amend the  
8 pleadings to add any additional parties. (*Id.*)

9 Pursuant to the “initial pretrial scheduling order” previously issued in this case, the  
10 deadline to seek leave to amend the pleadings or join any parties was “[w]ithin sixty (60) days of  
11 service of the complaint on the last party.” (Doc. No. 3 at 2.) Because the only named defendant  
12 in this case executed a waiver of service on June 17, 2022 (Doc. No. 4), the filing deadline for  
13 any motions or stipulations requesting leave to amend the pleadings has since passed.  
14 Nevertheless, in their joint status report, the parties request a filing deadline of September 27,  
15 2022 for “procedural motions,” which would include any motion by plaintiff to add additional  
16 plaintiffs. (Doc. No. 9 at 4, 8.) Having considered the parties’ request, the court now orders that  
17 any motions or stipulations requesting leave to amend the pleadings must be filed no later than  
18 **September 27, 2022.**

19 No further joinder of parties or amendments to pleadings is permitted without leave of  
20 court, good cause having been shown. *See Fed. R. Civ. P. 16(b); Johnson v. Mammoth*  
21 *Recreations, Inc.*, 975 F.2d 27 604 (9th Cir. 1992). The parties are advised that the filing of  
22 motions and/or stipulations requesting leave to amend the pleadings does not imply good cause to  
23 modify the existing schedule. Fed. R. Civ. P. 16 (b)(4); *see also Johnson*, 975 F. 2d at 609.  
24 Moreover, any amendment requested under Federal Rule of Civil Procedure 15(a) must not be:  
25 (1) prejudicial to the opposing party; (2) the product of undue delay; (3) proposed in bad faith; or  
26 (4) futile. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

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1        III.     DISCOVERY PROCEDURES

2              Discovery matters that do not implicate the schedule of the case or that do not relate to  
3 sealing or redaction of documents related to dispositive motions are referred to the assigned  
4 United States Magistrate Judge, who will hear all discovery disputes subject to his or her  
5 procedures. (The assigned magistrate judge's initials follow the district judge's initials next to the  
6 case number.) All discovery documents must include the words "DISCOVERY MATTER" in  
7 the caption to ensure proper routing. Do not direct delivery of courtesy copies of these  
8 documents to the district judge. Counsel are directed to contact the magistrate judge's courtroom  
9 deputy clerk to schedule discovery matters for hearing.

10             All motions to compel discovery must be noticed on the assigned magistrate judge's  
11 calendar in accordance with the local rules of this court and the magistrate judge's own  
12 procedures. The written ruling of the assigned magistrate judge shall be final, subject to  
13 modification by the district court only where it has been shown that the magistrate judge's order  
14 is clearly erroneous or contrary to law. *See* 28 U.S.C. § 636(b)(1)(A). Pursuant to Local Rule  
15 303, any party may file and serve a "Request for Reconsideration by the District Court of  
16 Magistrate Judge's Ruling." *See* L.R. 303(c). The requesting party must file and serve any such  
17 request within fourteen (14) days of service of a written ruling. L.R. 303(b). The request must  
18 specify which portions of the ruling are clearly erroneous or contrary to law and the basis for that  
19 contention with supporting points and authorities. L.R. 303(c).

20             In addition, the assigned magistrate judge reviews proposed discovery phase protective  
21 orders sought by the parties pursuant to Local Rule 141.1. However, requests to seal or redact in  
22 connection with dispositive motions or trial are decided by Judge Drozd and any such requests  
23 must comply with Judge Drozd's Standing Order and Local Rules 140 and 141.

24        IV.     DISCOVERY DEADLINES

25            A.     **Rule 26(a) Initial Disclosures**

26            The parties do not propose any changes to the form or requirements for disclosures under  
27 Rule 26(a). (Doc. No. 9 at 5, 7.)

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1           The parties shall serve their initial disclosures pursuant to Federal Rule of Civil Procedure  
2 Rule 26(a)(1) no later than 14 days after the date of entry of this scheduling order. Fed. R. Civ. P.  
3 26(a)(1)(C).

4           Any parties served or joined after the issuance of this scheduling order shall “make the  
5 initial disclosures within 30 days after being served or joined,” as provided by Rule 26(a)(1)(D).

6           **B. Fact Discovery**

7           All fact discovery shall be completed<sup>1</sup> no later than **June 8, 2023**, which is a date  
8 proposed by the parties.

9           The parties do not propose any changes to the limitation on discovery imposed by the  
10 Federal Rules of Civil Procedure or this court’s Local Rules. (*Id.* at 6, 8.)

11           **C. Expert Discovery**

12           Disclosures of expert witnesses, if any, must be made pursuant to Federal Rule of Civil  
13 Procedure 26(a)(2)(A), (B) and (C), and shall include all information required thereunder. Each  
14 expert witness must be fully prepared to be examined on all subjects and opinions included in the  
15 disclosures. Failure to comply with these requirements may result in the imposition of  
16 appropriate sanctions, including the preclusion of the expert’s testimony, or of other evidence  
17 offered through the expert.

18           The parties shall disclose initial experts and produce reports in accordance with Federal  
19 Rule of Civil Procedure 26(a)(2) by no later than **June 12, 2023**, which is a date proposed by the  
20 parties. With regard to expert testimony intended solely for rebuttal, those experts shall be  
21 disclosed and reports produced in accordance with Federal Rule of Civil Procedure 26(a)(2) on or  
22 before **June 26, 2023**, which is a date proposed by the parties.

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24           <sup>1</sup> As used herein, the word “completed” means that all discovery shall have been conducted so  
25 that all depositions have been taken and any disputes relevant to discovery shall have been  
26 resolved by appropriate order if necessary and, where discovery has been ordered, the order has  
27 been obeyed. The parties are advised that motions to compel must be filed in advance of the  
28 discovery completion deadlines so that the court may grant effective relief within the allotted  
discovery time. A party’s failure to have a discovery dispute heard sufficiently in advance of the  
discovery cutoff may result in denial of the motion as untimely.

1           All expert discovery shall be completed no later than **July 10, 2023**, which is a date  
2 proposed by the parties.

3       V.     MOTIONS

4           All motions, except motions for continuances, temporary restraining orders, or other  
5 emergency applications, shall be filed on or before **August 28, 2023**, which is a date proposed by  
6 the parties, and shall be noticed for hearing before Judge Drozd on a date not more than 60 days  
7 from the date the motion is filed and on a date that is consistent with Judge Drozd's Standing  
8 Order.<sup>2</sup> Counsel are directed to refer to the local rules regarding the requirements for noticing  
9 and opposing such motions on the court's regularly scheduled law and motion calendar.

10          Prior to filing a motion for summary judgment or motion for partial summary judgment  
11 (summary adjudication), the parties are ordered to meet and confer, in person or by telephone, to  
12 discuss the issues to be raised in the motion. **In addition to complying with the requirements**  
13 **of Local Rule 260, the parties must prepare a Joint Statement of Undisputed Facts, which**  
14 **identifies all relevant facts subject to agreement by all parties.** The moving party is  
15 responsible for filing the joint statement concurrently with the motion. In the notice of motion,  
16 the moving party shall certify that the parties have met and conferred as ordered above or provide  
17 a statement of good cause for the failure to do so.

18       VI.     SETTLEMENT CONFERENCE

19          The parties propose that the court not set a settlement conference at this time. (Doc. No. 9  
20 at 9.) The undersigned requires parties to participate in a court-supervised settlement conference  
21 with a settlement judge before the action may proceed to trial. A settlement conference has not  
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23          <sup>2</sup> In the parties' joint report, plaintiff states that she intends to file a motion for class certification.  
24 (Doc. No. 9 at 4–5.) Plaintiff proposes a briefing schedule and a filing deadline of July 24, 2023  
25 for such a motion, as well as a request for an extension of the application page limitations. (*Id.*)  
26 Defendant does not state a position with regard to class certification. Given that the court is  
27 setting a motion filing deadline of August 28, 2023, the court does not deem it necessary in this  
28 case to provide an earlier deadline specifically for the filing of a motion for class certification—  
plaintiff may file her motion for class certification sooner, if she so chooses. In addition, the  
court will not address plaintiff's request for leave to file briefs in excess of the page limitations  
set forth in the undersigned's Standing Order (Doc. No. 8) at this time. Any such request for  
administrative relief will need to be filed pursuant to Local Rule 233.

1 been set at this time. At any time before the final pretrial conference, the parties may file a joint  
2 request that this action be referred to a settlement judge for the setting of a settlement conference.  
3 If the parties have not participated in a court-supervised settlement conference by the time of the  
4 final pretrial conference, the court will refer the action at that time to the assigned magistrate  
5 judge for the setting of a settlement conference. The parties shall contact the designated  
6 settlement conference judge's chambers to ascertain that judge's settlement conference  
7 procedures, including the procedure for submitting confidential settlement statements, which shall  
8 not be filed and will not otherwise be disclosed to the trial judge.

9       Unless otherwise permitted in advance by the court, the attorneys who will try the case  
10 shall appear at the settlement conference. Pertinent evidence to be offered at trial, documents or  
11 otherwise, should be brought to the settlement conference for presentation to the settlement judge.  
12 Of course, neither the settlement conference statements nor communications during the settlement  
13 conference with the settlement judge can be used by either party in the trial of this case.

14       Absent permission from the court, in addition to counsel who will try the case being  
15 present, the individual parties shall also be present, and in the case of corporate parties,  
16 associations or other entities, and insurance carriers, a representative executive with unrestricted  
17 authority to discuss, consider, propose and agree, or disagree, to any settlement proposal or offer  
18 shall also be present. If for any reason the representative with unlimited authority cannot attend,  
19 such a person must be available by phone throughout the conference. In other words, having  
20 settlement authority "up to a certain amount" is not acceptable.

21 **VII. FINAL PRETRIAL CONFERENCE**

22       The final pretrial conference is set for **February 6, 2024 at 1:30 p.m.** before District  
23 Court Judge Dale A. Drozd by Zoom. Parties will receive a Zoom ID number and password for  
24 the final pretrial conference by email from Judge Drozd's Courtroom Deputy Pete Buzo  
25 (PBuzo@caed.uscourts.gov). Any other interested parties or members of the public may access  
26 the conference telephonically by dialing 888-557-8511 and using access code 9683466, at the  
27 time of the conference. Because several matters may be set for the same afternoon, the parties  
28 will be notified in advance of the conference at what specific time the court anticipates calling

1 their case so they can join the Zoom at that time.

2       The parties are directed to file a **joint** pretrial statement, carefully prepared and executed  
3 by all counsel, that complies with the requirements of this Local Rule 281 and Judge Drozd's  
4 Standing Order. Counsel shall also email a copy of the joint pretrial statement in Word format to  
5 Judge Drozd's chambers at dadorders@caed.uscourts.gov.

6       The parties' attention is directed to Local Rules 281 and 282. This court will insist upon  
7 strict compliance with these rules. At the pretrial conference, the court will set deadlines to file  
8 trial documents, including motions *in limine*, trial briefs, and proposed jury *voir dire*, instructions,  
9 and verdict forms (where applicable).

10 **VIII. JURY TRIAL**

11       A jury trial is set for **April 8, 2024 at 9:00 a.m.** in Courtroom 4 before District Court  
12 Judge Dale A. Drozd. Trial is anticipated to last 2–3 court days.

13 **IX. REQUEST FOR BIFURCATION, APPOINTMENT OF SPECIAL MASTER, OR**  
14 **OTHER TECHNIQUES TO SHORTEN TRIAL**

15       The parties have not made any such requests at this time and do not anticipate any such  
16 requests.

17 **X. RELATED MATTERS PENDING**

18       The parties state that there are no related cases.

19 **XI. OBJECTIONS AND MODIFICATIONS TO THE SCHEDULING ORDER**

20       **This case schedule will become final without further order of the court unless**  
21 **objections are filed within fourteen (14) days of the entry of this order.** The schedule, once  
22 final, shall not be modified except by leave of court upon showing of good cause. The assigned  
23 magistrate judge is authorized to modify only the discovery dates to the extent any such  
24 modification does not impact the balance of the schedule of the case.

25       The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
26 Procedure, no stipulations extending scheduling requirements or modifying applicable rules are  
27 effective until and unless the court approves them. Agreement of the parties by stipulation alone  
28 does not constitute good cause. Any request or stipulation to modify this scheduling order must

set forth:

- (1) the existing due date or hearing date as well as the discovery cutoff date, the last date for hearing motions, the final pretrial conference date, and the trial date;
  - (2) whether there have been prior requests for extensions, and whether these were granted or denied by the court; and
  - (3) specific, concrete reasons supporting good cause for granting of the extension. For example, if the reason for the requested extension is that it “will promote settlement,” the requesting party or parties must indicate the status of ongoing negotiations, i.e., have written proposals been exchanged; is counsel in the process of reviewing a draft settlement agreement; has a mediator been selected.

IT IS SO ORDERED.

Dated: September 14, 2022

Dale A. Droyd  
UNITED STATES DISTRICT JUDGE